

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

W.A.NO.1224 of 2005

Date: 13-09-2005

Between:

1 Central Bank of India, having its Central Office at Nariman Point Bombay

Through its Chaiman & Managing Director and others.

..... APPELLANTS

AND

N.V.Subba Rao,
Nagarjuna Street, Brindavan Gardens,
Guntur.

.....RESPONDENT

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

W.A.NO.1224 of 2005

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JUDGMENT: (Per the Hon'ble Sri Justice B.Prakash Rao)

Heard Sri C.V.Rajeeva Reddy, learned counsel appearing for the appellants and Smt. Bobba Vijayalakshmi, learned counsel appearing for the respondent.

This appeal is at the instance of the management who seeks to assail the orders in a writ petition filed at the instance of the respondent, who is an employee of the appellants, modifying the punishment of dismissal from service.

The brief facts, which are necessary for the disposal of the present appeal, are that the respondent was initially appointed as a Godown Keeper in the year 1954 and later he reached the position of Manager and at the relevant point of time, the disciplinary proceedings were initiated by a charge memo dated 22-08-1992 on the allegation that he allowed overdraft facility to some organization, which is not entitled for the same, though no loss was caused to the organization. After conducting a regular enquiry, receiving the enquiry report, issuing the second show cause notice and considering the explanation, he was dismissed from service.

The appeal preferred by him was rejected which led to filing the writ petition.

After contest by the appellants herein, *inter alia*, on various grounds, the learned single Judge having gone into the merits, found that the punishment

imposed against the respondent is shockingly disproportionate to the gravity of the misconduct alleged against him. It was further found that there was nothing to disclose any *mala fide* intention or corrupt motives on the part of the respondent-employee. That apart by taking into consideration the age of the respondent, who has already reached 72 years by then, more so, in view of the fact the incident occurred just before his retirement, it was opined that in stead of remitting the matter to the disciplinary authority for reconsideration as to imposing a lesser punishment, the same was modified into a punishment of reduction of pay in the time scale by three incremental stages.

Sri C.V.Rajeev Reddy, the learned counsel appearing for the appellants strenuously contended that the order of the learned single Judge is bereft of reasons and that the facts would not warrant imposition of such punishment. Even otherwise this court could not have taken upon itself in modifying the punishment.

Considering the submissions made and perusing the material on record, there is no dispute with regard to the fact that the respondent is an employee and at the relevant point of time, he was working as a Manager and just before his retirement, the said disciplinary proceedings were initiated against him on the main allegation of issuing overdraft facility to an organization, which is not entitled for the same.

After going through the entire proceedings on record, it is seen that there is absolutely no allegation about misappropriation or corruption on the part of the respondent herein. However, having found that the charges were proved, the disciplinary authorities imposed punishment of dismissal from service. The learned single Judge, by taking into consideration the age and the absence of any motive and the other circumstances as pointed out, modified the order of punishment to that of reduction of pay in the time-scale by three incremental stages, which is a lesser one. On a reading of the entire judgment of the learned single Judge, it cannot be said that it is bereft of reasons. Further, the learned single Jude had specifically pointed out that since the petitioner as of then was more than 72 years old and the incident happened just before his retirement, instead of remitting the matter for reconsideration to the disciplinary authority as to imposing a lesser punishment, it is better to give a quietus to

this litigation at this stage itself.

It is also contended that on the very same allegation the respondent-employee was also convicted for the offence under Section 120 (B) I.P.C. and therefore, it would fortify his action as such. It is needless to mention that mere conviction as such on criminal side would not have any part, to take an independent decision in regard to disciplinary action nor it can be considered as one of the circumstances. However, on totality of the circumstances and also having regard to the reasons assigned by the learned single Judge, we do not find any merit in the submission made to confirm the punishment of dismissal from service.

In view of the reasons assigned and having regard to the discretion exercised, we do not find any merits to warrant interference in this appeal.

Accordingly, the Writ Appeal is dismissed. No costs.

B.PRAKASH RAO, J

Dr.G.YETHIRAJULU, J

Dated 13th September, 2005

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